

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLARENCE DEAN,

Plaintiff,

v.

CALHOUN COUNTY, et al.

Defendants.

Case No. 1:23-cv-408

Hon. Robert J. Jonker

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**ORDER APPROVING AND ADOPTING REPORT AND RECOMMENDATION**

In February 2021, Jesse Dean—a Bahamian citizen—died from an untreated ulcer while being detained by Immigration and Customs Enforcement (“ICE”) at the Calhoun County Jail (“the County Jail”) in Battle Creek, Michigan. (ECF No. 39). The personal representative of Dean’s estate now brings Federal civil rights and tort claims against the United States, Calhoun County, and several individual healthcare workers at the County Jail related to Dean’s death. (*Id.*). At issue here is Plaintiff’s claim that the United States violated the Federal Tort Claims Act (“FTCA”) by contracting with Calhoun County to house ICE detainees at the County Jail. (*Id.* ¶¶ 77–86).

The United States moves to dismiss Plaintiff’s FTCA claim against it under Federal Rule of Civil Procedure 12(b)(1) on the grounds that the discretionary function exception in the FTCA, 28 U.S.C. § 2680(a), bars Plaintiff’s claim. (ECF No. 42). On July 17, 2024, Magistrate Judge Kent filed a Report and Recommendation recommending that the Court grant the United States’ Motion and dismiss it from Plaintiff’s action. (ECF No. 92). The Court has carefully reviewed

the Magistrate Judge's Report and Recommendation, which was duly served on the parties. No objections have been filed under 28 U.S.C. § 636(b)(1)(C).

**ACCORDINGLY, IT IS ORDERED that:**

1. The Report and Recommendation of the Magistrate Judge, (ECF No. 92), is **APPROVED AND ADOPTED** as the opinion of the Court.
2. Defendant United States' Motion to Dismiss, (ECF No. 42), is **GRANTED**.
3. The United States is **DISMISSED** from this action.

**IT IS SO ORDERED.**

Dated: August 1, 2024

/s/ Robert J. Jonker  
ROBERT J. JONKER  
UNITED STATES DISTRICT JUDGE